Meeting of the
Pharmacy Assistance Program Task Force
September 13, 2006
Draft Minutes

Task Force Members Present:
Beth Bortz
R. Neal Graham
Anna Keiter
Anne Leigh Kerr
Dr. Manikoth G. Kurup
Shannon Lambert
Julie Locke
Trudy Maske
Debbie Oswalt
Dr. Rachel Selby- Penczak
Becky Snead
Dr. Michele Thomas

Guests:
9 representatives from pharmaceutical companies, media, associations, health care facilities, constituency, etc.

Presenters:
Richard White, Anthem
Rob Jones, Partnership for Prescription Assistance
Jack Quigley, Department of Medical Assistance Services
John Gould, Arnold and Porter LLP

DMAS Staff:
Patrick Finnerty, Agency Director
Cheryl Roberts, Deputy Director of Programs and Operations
Bryan Tomlinson, Director, Division of Health Care Services
Rachel Cain, Pharm.D, Clinical Pharmacist
Keith Hayashi, R.Ph., Clinical Pharmacist
Katina Goodwyn, Pharmacy Contract Manager
Maryanne Paccione, Information Management Consultant
Merinda Battle, Health Care Services Analyst

WELCOME AND INTRODUCTIONS FROM PATRICK FINNERTY, DMAS DIRECTOR

Mr. Finnerty welcomed everyone to the meeting and expressed his appreciation for each person's willingness to serve on the Pharmacy Assistance Program Task Force. He requested that members of the Task Force introduce themselves and state their affiliation.

Next, Mr. Finnerty reviewed the purpose of the Task Force. He directed the Task Force to the copy of the 2005 General Assembly Bill (House Bill 1624/Senate Bill 841) included in their materials. He reviewed paragraph B which stated the purpose of the Task Force. He continued by clarifying that the Medicare Part D Benefit is a Federal program. Medicaid does not have authority to change the program. The intent of the legislation is for DMAS to look at the Part D benefit as it relates to the patient assistance programs (PAP) that were in place prior to the Medicare Part D program. The Task Force should ask if there are ways for the PAPs operating in Virginia to adapt, change, integrate/coordinate their program to work as a supplement or adjunct to the Medicare Part D benefit. The legislation encourages seamless access to PAPs for low income Virginians.

Mr. Finnerty then reviewed the agenda and stated that this is one of two meetings that will serve as a forum to present ideas that will be included in the report due to the General Assembly by November 1, 2006.

OPENING REMARKS BY DEBBIE OSWALT OF THE VIRGINIA HEALTH CARE FOUNDATION (Handouts Attached)

Ms. Oswalt presented the first handout "Which Seniors Need Assistance from PAPs?" The group within the 135% to 150% of the Federal Poverty Limit (FPL) range is eligible for some portion of assistance. She

focused on the group whose income is 150% of the FPL and up to 350%. She stated that this group needs the most assistance while in the Medicare Part D "doughnut hole" and should be the focus for additional assistance. Ms. Oswalt also stated that this mid-income level group will have challenges when they hit the "doughnut hole" and sometimes go without their medications. They are often unable to afford them until the next year when their Part D benefits start anew.

Ms. Oswalt stated that Schering-Plough was the first company to ask for an advisory opinion from the Office of the Inspector General (OIG). The OIG opined that medications obtained through PAPs could not apply towards TrOOP or help get the patient through the "doughnut hole." Ms. Oswalt presented the second handout "Patient Assistance Program Eligibility Criteria and Medicare Part D". This handout identified PAP eligibility by pharmaceutical company for Medicare Part D Patients.

PRESENTATION BY RICHARD WHITE OF ANTHEM REPRESENTING PRESCRIPTION DRUG PLANS (Presentation Attached)

Richard White presented a PowerPoint presentation entitled "Medicare Part D Overview" (attached). Mr. White reviewed eligibility for Medicare Part D and described the benefits that a Medicare Part D plan may provide. In addition, he reviewed the current Medicare Part D plan market in Virginia and the various plan designs offered. The presentation continued to highlight Low Income Assistance and Low Income Benefits. He noted that nationally 57% of applications for the low income subsidy assistance were denied. The majority of these denials were based on the asset test rather than income. Mr. White also reviewed the 2007 timeline for Medicare Part D. He noted that there was an extremely brief window for the open enrollment period, November 15, 2006 to December 31, 2006.

PRESENTATION BY ROB JONES OF PARTNERSHIP FOR PRESCRIPTION ASSISTANCE OF VIRGINIA (A PATIENT ASSISTANCE PROGRAM – PAP) (Presentation Attached)

Rob Jones noted that the Partnership is an effort to bring together all the patient assistance programs under one umbrella, a single access point for more than 475 public and private patient assistance programs. It is a national organization with state chapters and the Virginia chapter was launched in August 2005. In order to access the different PAPs the enrollee would need to use the website or call to determine the programs for which they are eligible. There is also a traveling bus (the Help Express) with phones, internet access, and staff to provide assistance in finding an appropriate program and completing the application. Mr. Jones also distributed a brochure further describing the program to the Task Force and audience.

PRESENTATION BY JACK QUIGLEY OF THE DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (Handout attached)

Jack Quigley stated that after the implementation of Medicare Part D the major problem experienced by DMAS was the inaccurate assignment of low income subsidy beneficiaries which resulted in many dual eligible enrollees being charged the entire deductible. This meant they often could not afford to pay for their medications and many went without their medications. As a result of the problems experienced by many of the dual eligible enrollees, Governor Kaine issued Executive Order Nine and within 24 hours the Commonwealth started paying claims. The Centers for Medicare and Medicaid Services (CMS) agreed to reimburse states for claims paid up until March 8, 2006. Virginia paid 86,000 claims for 28,000 dual eligible enrollees, which resulted in a payment of approximately $5.5 million. Mr. Quigley prepared a

handout that was included in the Task Force members' folders (attached) describing the Medicare Prescription Drug Program.

PRESENTATION BY JOHN GOULD, ATTORNEY WITH ARNOLD AND PORTER, LLP—WASHINGTON D.C. (Presentation attached)

John Gould focused his presentation on the opinion of the Office of the Inspector General (OIG) regarding manufacturer and charity patient assistance programs and their use in conjunction with Medicare Part D benefits. This opinion was prompted by an inquiry posed by pharmaceutical manufacturer, Schering-Plough. He reviewed why manufacturers' pharmacy assistance programs could not assist enrollees meet their out of pocket expense or get them through the "doughnut hole". Anti-Kick back laws, as interpreted by the OIG, present legal obstacles for manufacturers' PAPs in that the prescriptions received through their programs cannot be counted toward TrOOP. Mr. Gould stated that independent charity PAPs have fewer limitations and their prescription assistance services can count toward TrOOP unlike that of a manufacturer PAP. Mr. Gould noted that there has been information in the "trade press" about other requests for OIG opinions related to these issues. There is a slight possibility that OIG may alter its opinion in future responses.

PRESENTATION BY BECKY SNEAD OF THE VIRGINIA PHARMACISTS ASSOCIATION – (Handout Attached)

Becky Snead noted that she consulted with three pharmacists representing the Southwest, Tidewater, and Shenandoah for their reaction to the four discussion questions. Ms. Snead distributed a handout (attached) summarizing the pharmacists' responses and recommendations. Ms. Snead continued by stating that gaps were found in the ability to pay copays. In addition, in some cases drugs are not covered on a new plan and the enrollee had to switch to a new drug therapy. She emphasized that prescription drugs are not commodities that can be interchanged; therefore, changing drug therapies, even within the drug class does impact individual health outcomes. Ms. Snead noted that consideration should be given to establishing a State Pharmacy Assistance Program (SPAP) to pay for Part D premiums and to assist for payment while the enrollee is in the "doughnut hole."

PRESENTATION BY ANNA KEITER – CASE MANAGER WITH HIGHLAND MEDICAL CENTER (Handouts attached)

Ms. Keiter noted that she serves as a case manager for Highland Medical Center (Highland County) and in preparation for this presentation contacted forty other case managers whose clients have been impacted by the implementation of Medicare Part D. Ms. Keiter focused her presentation on recommending next steps for the Task Force. The recommendations were: 1) Social Security should review the low income subsidy (LIS) eligibility requirements and include cost of living expenses (basic expenses) when calculating eligibility, 2) Medicare and Social Security should increase the assets that enrollees are allowed to have and still be eligible for LIS, 3) Medicare and Social Security should allow for the enrollee's family to assist the dual eligible enrollee without the monetary assistance affecting the enrollee's eligibility, 4) OIG should allow PAPs to support enrollees without Anti-Kickback consequences, 5) denial letters should be able to be accessed via the web and PAPs should have access to Medicare Part D enrollment databases, 5) OIG should release a statement to allow PAPs to support enrollees in the "doughnut hole", and 6) there should be a coordinated effort between the PAPs and Medicare Part D to provide assistance during the "doughnut hole."

DISCUSSION AND PERSPECTIVES

This discussion focused on four questions that were listed on the agenda. Mr. Finnerty opened the discussion to both the task force and attendees from the audience.

QUESTION: What "gaps" in coverage and other transition issues continue to exist for eligible low-income Virginians after the implementation of Medicare Part D drug coverage on January 1, 2006?

DISCUSSION:

A. The enrollee's ability to pay for or receive medications during the "doughnut hole" (especially for those with incomes between 135%-200% of the federal poverty level);
B. Low income subsidy eligibility requirements and appeals process;
C. Access to drugs because of different formularies and coverage, in general;
D. Difficulty in navigating and understanding the LIS and Medicare Part D application process;
E. The inability for assistance from PAPs and Academic Medical Centers to count towards an enrollee's TrOOP, and
F. Annual re-determination for Low-Income Subsidy eligibility.

QUESTION: What aspects of current Medicare Part D drug coverage present the greatest problems for eligible low-income Virginians?

DISCUSSION:

A. Transitioning between different medicines for various conditions (general health and behavioral health) can be detrimental to the enrollee's health;
B. There is no standardization between plans;
C. Annual re-determination for Low-Income Subsidy;
D. Patients need assistance to get through the "doughnut hole" and/or assistance to pay for medications when in the "doughnut hole;"
E. Asset eligibility guidelines for low income subsidy; and
F. Administration issues including CMS misinformation.

Mr. Finnerty noted that many of the issues identified related to administration at the Federal level. He also stated that while memorializing resolutions from the General Assembly generally have limited impact, perhaps a resolution could be sent to Congress on these issues. In addition, he noted that many issues demonstrated the need for further public education for enrollees and their providers/ supporters.

FINAL COMMENTS

The last two questions on the agenda will be covered at the next meeting. Pat Finnerty thanked the Task Force and the public for their comments and participation. The next meeting is scheduled for Monday September 25, 2006 from 9:00 am to 11:00 am.